

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 8-12, 15, 24-47, and 57-59 are requested to be canceled.

Claims 1-7, 14, 16-23, and 48-56 are currently being amended.

Claims 60-84 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-7, 13-14, 16-23, 48-56, and 60-84 are now pending in this application.

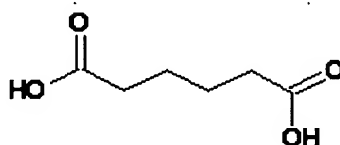
Specification

In this Office Action, the Examiner noted that the instant specification recites a pending application by title and filing date. The Examiner requested that the information regarding this U.S. patent application be updated. Applicants have amended the specification to include a reference to U.S. Application Serial No. 09/698,619, which issued as U.S. Patent 6,495,657. Applicants submit that the amendment to the specification does not add new matter request that the examiner withdraw the objection.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1-7 and 13-23 under 35 U.S.C. § 103(a) as obvious over JP 059112070 in view of U.S. 5,135,811 (White, *et al.*) or in view of U.S. 6,365,066 (Podszun, *et al.*). Applicants request that the Examiner reconsider the rejection in view of the foregoing amendments and the following comments.

As amended, claims 1-7 and claims 13-23 recite monomers selected from unsaturated carboxylic acids, esters of unsaturated carboxylic acids, anhydrides of unsaturated carboxylic acids, and mixtures thereof. The Examiner noted that JP 05112070 teaches nylon 66, which is a polyamide produced by the condensation of adipic acid and hexamethylene diamine. A critical monomer component of nylon 66, adipic acid, is a saturated carboxylic acid having the following formula:



In contrast, claims 1-7 and claims 13-23 recite, as amended, monomers selected from unsaturated carboxylic acids, esters of unsaturated carboxylic acids, anhydrides of unsaturated carboxylic acids, and mixtures thereof. None of the references cited by the Examiner, (JP 05112070, U.S. 5,135,811 and U.S. 6,365,066), teach or suggest a polymer formed from unsaturated carboxylic acids, esters of unsaturated carboxylic acids, or anhydrides of unsaturated carboxylic acids. To establish a *prima facie* case of obviousness, the prior art references must teach or suggest each and every claim limitation (*see*, MPEP § 2143). Accordingly, Applicants respectfully contend that claims 1-7 and claims 13-23 are not obvious over JP 05112070 in view of U.S. 5,135,811 or in view of U.S. 6,365,066, and request that the Examiner reconsider and withdraw the rejection.

In addition, the Examiner rejected claims 48-56 under 35 U.S.C. 103(a) as being unpatentable over JP 05112070 in view of U.S. 5,135,811 (White, *et al.*) or in view of U.S. 6,365,066 (Podszun, *et al.*), and further in view of U.S. 5,328,698 (Onwumere, *et al.*). Applicants request that the Examiner reconsider the rejection in view of the foregoing amendments and following comments.

Claims 48-56, as amended, recite monomers selected from unsaturated carboxylic acids, esters of unsaturated carboxylic acids, anhydrides of unsaturated carboxylic acids, and mixtures thereof. As noted above, none of the references cited by the Examiner, including

Onwumere *et al.*, teach a polymer formed from unsaturated carboxylic acids, esters of unsaturated carboxylic acids, or anhydrides of unsaturated carboxylic acids. To establish a *prima facie* case of obviousness, the prior art references must teach or suggest each and every claim limitation (*see*, MPEP § 2143). Accordingly, Applicants respectfully contend that claims 48-56 are not obvious over JP 05112070 in view of U.S. 5,135,811, U.S. 6,365,066, or U.S. 5,328,698 and request that the Examiner reconsider and withdraw the rejection.

Double Patenting

In the Office Action, the Examiner provisionally rejected claims 1-7, 13-23 and 48-56 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. application number 09/850,324 (*i.e.* “the ‘324 Application”). Applicants respectfully traverse the rejection for the following reasons.

An “obviousness-type” double patenting rejection is proper only where a “claim in the application define[s] an invention that is merely an obvious variation of an invention claimed in the patent” (*see* MPEP § 804 B.1). Thus, in the present case, a provisional “obviousness-type” double patenting rejection may only be based on the language of the claims in the ‘324 Application.

The claims in the instant application recite “an antimicrobial agent selected from quaternary ammonium compounds, gentian violet compounds, substituted or unsubstituted phenols, biguanide compounds, iodine compounds, and mixtures thereof,” (*i.e.* antimicrobial agents selected from a specified set of organic compounds). In contrast, the claims of the ‘324 Application recite “an antimicrobial agent selected from the group consisting of metals, metal alloys, metal salts, metal complexes and mixtures thereof,” (*i.e.* metals, or inorganic compounds). Applicants respectfully contend that it would not be obvious to use the specified antimicrobial agents recited in the present claims, as they are not taught or suggested by the metallic agents listed in the claims of the ‘324 Application. As such, Applicants request that the Examiner reconsider and withdraw the rejection.

Applicants note that a Notice of Allowance has been granted for the ‘324 Application. Applicants will inform the Examiner when the ‘324 Application issues as a patent.

Minor Informalities

Examiner noted that claims 1, 2, 5-7, 13, 15, 48-53 and 55-56 recite the Markush groups as "selected from," and suggested that Applicants amend the phrase to "selected from the group consisting of." Applicants have amended the claims to conform with the Examiner's suggestion and submit that these changes are merely stylistic and do not narrow the scope of the claims. As such, Applicants request that the Examiner reconsider and withdraw the objection.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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